

Attorney's Docket No: cardiobeat-1
PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

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| In re application of | : | |
| George McBride, et al | : | |
| Filed: 03/27/2000 | : | EXAMINER: PAUL L. KIM |
| Title: Medical Testing System and Method | : | Art Unit 2857 |
| Serial No.: 09/535,186 | : | |

DECLARATION UNDER 37 C.F.R. 1.131

By
DONALD J. LENKSZUS

I, Donald J. Lenkszus hereby declare as follows:

1. I am a patent attorney registered to practice before the United States Patent and Trademark Office. My registration number is 28,096.
2. My address is Donald J. Lenkszus, P.C., P.O. Box 3064, Carefree, AZ 85377-3064.
3. I prepared and filed the above-identified patent application on behalf of Cardiobeat.com, a Nevada Corporation that is the owner of the invention disclosed in the above-identified application.
4. On or about December 23, 1999, I met with George McBride and Robert Royce to discuss patentability of inventions.
5. On or about January 3, 2000, I again met with George McBride and Robert Royce to discuss patenting the invention claimed in the above-identified application as well as related inventions arising out of the same system and to receive disclosure materials to begin the preparation of the above-identified patent application and related applications. During the month of January 2000, I began preparation of the above-identified patent application.
6. On or about January 27, 2000, I again met with George McBride and Robert Royce to obtain further disclosure information and to discuss a preliminary draft patent application prepared by me.
7. Throughout the months of February and March 2000, I provided a further draft patent application to George McBride and Robert Royce for their review and comment.
8. I prepared a draft patent application and met with George McBride and Robert Royce on March 9, 2000.

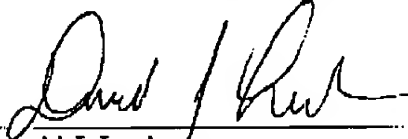
INVENTOR: McBride et al
TITLE: MEDICAL TESTING AND METHOD

attorney docket: CARDIOBEAT-1

9. During the period subsequent to March 9, 2000 and prior to March 27, 2000 George McBride and Robert Royce reviewed the patent application and provided comments to me. I prepared the final patent application and filed the same with the United States Patent and Trademark Office on March 27, 2000.

10. At all times from the initial meeting with George McBride and Robert Royce I was diligent in the preparation and filing of the above-identified patent application.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.


Donald J. Lenkszus

Date: August 16, 2002

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DECLARATION UNDER 37 C.F.R. 1.131

By
GEORGE MCBRIDE

I, GEORGE MCBRIDE hereby declare as follows:

1. My address is 4519 East Peakview, Cave Creek, AZ 85331
2. On or prior to July 9, 1999, Robert Royce and I conceived the invention that is the subject of the above-identified patent application. Evidence of this conception is an emailed executive summary of the project dated July 09, 1999, a redacted copy of which is attached hereto as Exhibit 1.
3. Subsequent to the conception of the invention Robert Royce and I were diligent in reducing the invention to practice as evidenced by a continuous development activity pertaining to the reduction to practice of the invention. Subsequent to July 9, 1999, a new corporate entity was formed, Cardiobeat.com, to develop and market the invention. I prepared several draft development plans for the invention, one version of which was sent by email to Robert Royce and Larry MacDonald and which is attached hereto as Exhibit 2.
4. During the time that I was preparing the development plan, I and/or Robert Royce consulted with contract engineering firms relative to having assistance in reducing various aspects of the invention to practice. One such communications was an email from Warren Williamson dated August 17, 1999 that was forwarded to me by Robert Royce proposing design approaches to implementations of the invention. A copy of the email is attached as Exhibit 3.
5. From at least as early as August 17, 2002, Robert Royce worked substantially continuously and diligently at reducing the invention to practice as an employee and owner of Cardiobeat.com, assignee of the subject invention.
6. At frequent times throughout the development activity of the invention, we consulted with Dr. James Buell, regarding medical applications and impedance cardiography, which is used in the illustrative embodiment of the invention. One email communication that I received from Dr. Buell is attached hereto as Exhibit 4 dated 9/18/1999.

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Lenkszus, P.C.PHONE NO. : 480 419 3966
480-575-1321

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INVENTOR: McBride et al
TITLE: MEDICAL TESTING AND METHOD

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7. At all times subsequent to the conception of the invention, both Robert Royce and I continued to work on the reduction to practice of the invention including development of software. A portion of a business plan that I authored is attached as Exhibit 5, dated October 1, 1999, and describes a software program that was developed as part of this ongoing activity.

8. Robert Royce provided a status report to me by email dated October 15, 1999, attached as Exhibit 6, that discusses the development of aspects of the invention and includes an attached flow chart. The flow chart indicates that a portion of the database activity that is part of the reduction to practice of the invention is "about 1/2 done at this time". The database activity was performed prior to October 15, 2002.

9. Development activity continued without interruption subsequent to the status report of October 15, 1999. On December 22, 1999, a meeting was held to review the development status of the invention. A copy of the overview of that development status is attached as Exhibit 7.

10. From December 23, 1999 through March 27, 2000, I along with Robert Royce had several meetings with Donald J. Lenkszus to disclose our invention and the illustrative embodiment development with him so that he could prepare and file patent applications on the subject invention and related inventions.

11. Warren Williamson of W.L. Williamson & Associates provided engineering services throughout this stage of the development activities up to and beyond the filing date of the subject patent application. Mr. Williamson provided engineering service at our direction to provide an implementation of the invention.

12. All the attached documents are true copies of original documents.

13. Throughout the period from conception of the invention through the filing date of the above-identified patent application, Robert Royce and I continuously and diligently worked on reducing the invention to practice either through our direct personal efforts and/or through direction of others in implementing various aspects of the product embodying the invention.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.


George McBride

Date: August 16, 2002